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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,912	10/12/2004	Mark Viklund	7298.098.NPUS02	5911
<div>28694      7590      07/17/2007 NOVAK DRUCE &amp; QUIGG, LLP 1300 EYE STREET NW SUITE 1000 WEST TOWER WASHINGTON, DC 20005</div>				
			<div>EXAMINER OLSON, MARGARET LINNEA</div>	
			<div>ART UNIT 3782</div>	<div>PAPER NUMBER</div>
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/711,912

Applicant(s)

VIKLUND ET AL.

Examiner

Margaret L. Olson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 October 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 10/12/04.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 47. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 34, 36, 60, 62, 48, 72, 64. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the

filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the pair of spring-based struts on a vehicle cargo container of claim 8 and the flexible container of claim 14 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Hirtsiefer (US 5,546,705). Hirtsiefer discloses a spring-based strut for a vehicular mountable cargo container with a top portion 2 pivotally mounted to a bottom portion 1. In the strut 5, two arms 9 and 10 are operatively connected for pivotation relative to one another through a delimited range of motion (figure 5). A biasing spring 16 is operatively interposed between the two arms. The two arms are connectable to the top and bottom portions of the cargo carrier at 6 and 7, and the strut delivers an enabling force to urge the cargo container open (column 3, lines 19-22). The two arms are configured relative to one another and the biasing spring so that across a substantial entirety of the range of motion the assisting force urges the cargo container to an open position (column 4, lines 17-20).

With respect to claim 2, a cam surface at arm 10 near pivot bearing 13 and at the surface adjacent to arm 9 establishes a surficial interaction with arm 9. Delimiters 30 and 31 limit the range of motion between the two arms so that the operationally effective

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force of the biasing spring only urges clockwise or counterclockwise pivotation of the cam surface (figure 4).

With respect to claim 3, the cam surface on arm 10 and biasing spring 16, together with the pivot connection 13 between the two arms would have an over-center strut orientation that would change the direction of pivotation if the delimiters were not included.

With respect to claim 4, a force communication point at the tip of arm 10 closest to pivot 13 moves across the cam surface on arm 10 while the force communication point remains exclusively on one side of a line oriented parallel to a direction of the operationally effective force of the biasing spring (figure 4).

With respect to claim 5, a cam surface at arm 10 near pivot bearing 13 and at the surface adjacent to arm 9 establishes a surficial interaction with arm 9. A force communication point at the tip of arm 10 closest to pivot 13 moves across the cam surface on arm 10 while the force communication point remains exclusively on one side of a line oriented parallel to a direction of the operationally effective force of the biasing spring and intersecting the pivot connection 13 between the two arms (figure 4, figure 5).

With respect to claim 6, the line oriented parallel to the direction of the biasing spring's operationally effective force and intersecting the pivot connection is substantially parallel to the non-cam arm 9 (figure 6).

With respect to claim 7, the operationally effective force imposed by the biasing spring is a summation of the vector forces imposed by the biasing spring on the two arms.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 8-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hirtsiefer (US 5,546,705) in view of Parker et al. (US 3,640,423). Hirtsiefer discloses a spring-based strut for a vehicular mountable cargo container with a top portion 2 pivotally mounted to a bottom portion 1. In the strut 5, two arms 9 and 10 are operatively connected for pivotation relative to one another through a delimited range of motion (figure 5). A biasing spring 16 is operatively interposed between the two arms. The two arms are connectable to the top and bottom portions of the cargo carrier at 6 and 7, and the strut delivers an enabling force to urge the cargo container open (column 3, lines 19-22). Hirtsiefer does not explicitly disclose that a pair of the struts supports the top portion of the container. Parker et al. teach a vehicular mounted cargo container with a pair of spring based struts 90 and 91 (figure 4, figure 6) mounted on opposite end regions of the cargo container (figure 4, figure 6; column 2, lines 54-61). It would have been obvious to one of ordinary skill in the art at the time of invention to use a pair of

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side strut supports to hold up the cargo lid container of Hirtseifer to stably support the container top and prevent unwanted rotational movements of the top portion.

With respect to claim 9, the primary reference Hirtsiefer discloses that the spring based strut is configured with the biasing spring so that across a substantial entirety of the range of motion the assisting force urges the cargo container to an open position (column 4, lines 17-20), avoiding a closed position.

With respect to claim 10, the primary reference Hirtsiefer discloses that the spring based strut is configured with the biasing spring so that across a substantial entirety of the range of motion the assisting force urges the cargo container to an open position (column 4, lines 17-20), preventing a closed position.

With respect to claim 11, the primary reference Hirtsiefer discloses that the spring based struts of claim as taught by claim 8 would work together to maintain a parallel top portion of the container during opening and closing.

With respect to claim 12, the primary reference Hirtsiefer discloses that the spring based struts of claim as taught by claim 8 would work together to prevent a rotational movement of the top portion of the container during opening and closing.

With respect to claim 13, the primary reference Hirtsiefer discloses that a cam surface at arm 10 near pivot bearing 13 and at the surface adjacent to arm 9 establishes a surficial interaction with arm 9. A force communication point at the tip of arm 10 closest to pivot 13 moves across the cam surface on arm 10 while the force communication point remains exclusively on one side of a line oriented parallel to a



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direction of the operationally effective force of the biasing spring and intersecting the pivot connection 13 between the two arms (figure 4, figure 5).

With respect to claim 14, the use of the structure of Hirtsiefer as modified by Parker et al. discloses this method. The lid portion 2 is sufficiently flexible to permit two opposite end regions to be at relative different distances from the bottom portion of the box since it is made of plastic, which is a semi-flexible material (column 2, lines 32-33).

With respect to claim 15, use of the structure of Hirtsiefer as modified discloses this method.

With respect to claim 16, use of the structure of Hirtsiefer as modified discloses this method.

With respect to claim 17, use of the structure of Hirtsiefer as modified discloses this method.

With respect to claim 18, use of the structure of Hirtsiefer as modified discloses this method.

With respect to claim 19, use of the structure of Hirtsiefer as modified discloses this method.

With respect to claim 20, use of the structure of Hirtsiefer as modified discloses this method.

With respect to claim 21, use of the structure of Hirtsiefer as modified discloses this method.

With respect to claim 22, use of the structure of Hirtsiefer as modified discloses this method.

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With respect to claim 23, use of the structure of Hirtsiefer as modified discloses this method.

With respect to claim 24, the primary reference Hirtsiefer a slider 20 presents a reception surface near 22 for establishing a sliding point of contact with the cam surface near 13 by connection to an extension of it. Use of the structure of Hirtsiefer as modified discloses this method.

With respect to claim 25, use of the structure of Hirtsiefer as modified discloses this method.

With respect to claim 26, use of the structure of Hirtsiefer as modified discloses this method.

With respect to claim 27, use of the structure of Hirtsiefer as modified discloses this method.

With respect to claim 28, use of the structure of Hirtsiefer as modified discloses this method.

With respect to claim 29, use of the structure of Hirtsiefer as modified discloses this method.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Turner (US 2,483,947) discloses a similar invention.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret L. Olson whose telephone number is (571) 272-9002. The examiner can normally be reached on MTWR, 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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NATHAN J. NEWHOUSE  
SUPERVISORY PATENT EXAMINER